

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 BRIAN DAVID WILLIAMS,

11 Plaintiff,

12 v.

13 DEREK'S AUTO REPAIR,

Defendant.

CASE NO. C15-5238 RBL

ORDER DENYING IFP AND
DISMISSING CASE WITH
PREJUDICE

14 This Matter is before the Court on Plaintiff Brian David Williams' Motion to proceed *in*

15 *forma pauperis*. [Dkt. #1] His proposed complaint claims that his name—"Brian David

16 Matthews"—is protected by a copyright and that Defendant Derek's Auto Repair is violating that

17 right by "selling unauthorized copies of Brian David Williams."

18 He seeks a declaration that he has such a copyright, money damages, and fees.

19 A district court may permit indigent litigants to proceed *in forma pauperis* upon

20 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad

21 discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil

22 actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th

23 Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed

1 *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the
 2 action is frivolous or without merit.” *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369
 3 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*
 4 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*
 5 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.
 6 1984)).

7 A *pro se* Plaintiff’s complaint is to be construed liberally, but like any other complaint it
 8 must nevertheless contain factual assertions sufficient to support a facially plausible claim for
 9 relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (citing *Bell*
 10 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). A
 11 claim for relief is facially plausible when “the plaintiff pleads factual content that allows the
 12 court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”
 13 *Iqbal*, 556 U.S. at 678.

14 Plaintiff’s proposed complaint does not, and as it relates to the subject matter, cannot
 15 even theoretically, meet this standard. Plaintiff does not have a copyright in his name, and the
 16 claim that someone is “selling unauthorized copies of Brian David Matthews” is frivolous on its
 17 face.

18 This is not the first time Brian David Matthews has sought to use (or *abuse*) the *in forma*
 19 *pauperis* system to file facially frivolous claims. In *Matthews v Washington*, Cause No. 11-
 20 5018BHS, he claimed that he was a “maritime vessel.” That case was dismissed as frivolous.
 21 [Dkt. #5 therein]. Last year, Judge Settle dismissed *Matthews v. Washington*, Cause No. 14-
 22 5762BHS, in which Matthews similarly claimed that the State was infringing on his “trade
 23 name,” “Brian D. Matthews.”

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1 In *Matthews v Holder*, Cause No. 14-0155RAJ, he sued claiming that he was a “non-
2 religious corporation sole.” That case was dismissed as frivolous under 28 U.S.C. §1915(e)(2).
3 [See Dkt. #s 5 & 6 in that case]. And this Court addressed the malicious frivolity of Mr.
4 Matthews’ misguided, wasteful efforts in *Matthews v Pierce County*, Cause No. 11-5131RBL
5 [Dkt. #7].

6 The Motion to Proceed in forma Pauperis is **DENIED**. Because the case is fatally
7 frivolous under §1915, the case is **DISMISSED WITH PREJUDICE**.

8 Mr. Brian David Matthews is further **WARNED** that further, similarly frivolous filings in
9 this District may result in an Order barring him as a vexatious litigant, or other appropriate
10 sanctions.

11 IT IS SO ORDERED.

12 Dated this 16th day of April, 2015.

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15 RONALD B. LEIGHTON
16 UNITED STATES DISTRICT JUDGE
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